XI(HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

M. A. NO.1342 of 2005

APPELLANTS
Non-appellant No.2 & 3

1. The Superintendent of Police, District Dhamtari (C.G.)
2. State of Chhattisgarh, Through: the Collector, Dhamatari (C.G.)

Vs

RESPONDENTS
Claimants

1. Abdul Rajjak, S/o Shri Abdul Shakur, aged about 62 yrs.
2. Mehrunbai, W/o Shri Noor Mohammad, aged about 40 Yrs.

Both R/o Sihava, Police Station: Sihava, Tahsil Nagri, District Dhamtari (CG)

Non-applicant No.1

3. Narayan Prasad Sharma, S/o Shri Mahru Verma, R/o Irrigatoin Colony, Gangrel, District Dhamtari (C.G.)

Respondent No.4 & 5

4. Noor Mohammad, S/o Abdul Rajjak, R/o Sihava, Police Station: Sihava, Tahsil Nagri, District Dhamtari (CG)
5. The Oriental Insurance Company Limited, Divisional Manager, Divisional Office, Kachahari Chowk, Raipur (C.G.), through the Branch Manager, Oriental Insurance Co., Behind Amar Talkies, Dhamtari (C.G.)

Present:
Mr. Ashish Shukla, Government Advocate for the appellants.

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ORAL JUDGMENT

(Passed on 23/04/2007)

This appeal under Section 173 of the Motor Vehicles Act, 1988 (for brevity 'the Act') is directed against the award dated 30.7.2005 passed by the Upper Motor Accident Claims Tribunal, Dhamtari in Claim Case No.332/04 whereby the tribunal has awarded a sum of Rs.82,500/-, being 50% of total award of sum of Rs.1,65,000/- assessed, to the dependent of deceased Mohammed Farookh, who died in a motor vehicle accident dated 7.10.2001.

From perusal of the record it appears that non-applicant Narayan Prasad Sharma was driving Tata 407 bearing registration number CG-03-2304, whereas, deceased Mohammad Farookh was driving jeep bearing registration number MP23-B-9148. The averments made in the claim petition was that Narayan Prasad Verma driving the vehicle rashly and negligently dashed with the jeep driven by Mohammed Farookh, as a result of which he died.

In the claim petition the claimants have arrayed the driver of Tata 407 namely Narayan Prasad Verma as non-applicant No.1, owner of jeep namely Noor Mohammad as non-applicant No.4, the insurance company which had insured the jeep as non-applicant No.5 apart from appellants herein as non-applicant No.2 & 3.

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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The tribunal has assessed the compensation at Rs.1,65,000/- considering the notional income of the deceased at Rs.15,000/- per annum, after deducting 1/3rd amount towards expenses to be incurred by the deceased on himself and applying the multiplier of 16. However, taking into consideration the contributory negligence of the deceased himself, the non-applicant No.2 & 3 have been saddled with the liability of payment of compensation to the tune of Rs.82,500/- with interest @ 6% p.a.

This appeal has been preferred mainly on the grounds that respondent No.1 & 2 did not come within the category of dependents, there is collusion between the parties, identity of vehicle has not been established and appellants were not given proper opportunity for adducing evidence. However, from perusal of the impugned award as also from the evidence available on record it is observed that the award has been passed only in favour of respondent No.2 namely Mehrun Bai, who is admittedly the mother of the deceased. Further on the basis of evidence available on record the accident has been held to be proved with a finding that both the drivers were negligent.

So far as the objection that the father of deceased was not made a party is concerned, he has been arrayed as respondent No.4 in the claim petition and there is no appeal at his instance, therefore, this ground is not available to the appellants.

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मामला क्रमांक M.A. 134-2 **सन्** 2005

आदेश पत्रक (पूर्वानुबद्ध)

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Jrosklar	In the result, there is no illegality or infirmity in the impugned award passed by the tribunal, the appeal being devoid of any substance is liable to be dismissed and accordingly, it is hereby dismissed. Sd/- DHIRENDRA MISHRA Judge	

P.T.O.